

GOOD FAITH EFFORTS

To be a responsible and/or responsive Bidder, your firm must meet the Disadvantaged (DBE) or Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE) and Service-Disabled Veteran-Owned Businesses (SDVOB) goal(s) on the contract or provide documentation to support Good Faith Efforts taken to meet these goal(s). Actions to meet the goal(s) should begin immediately upon a firm's intent to work for NYSDOT on a project.

The Bidder can meet this requirement during the pre-award or pre-designation stage in two ways:

1. The Bidder can document commitments that meet the goal(s).
2. If the Bidder does not document enough commitments toward meeting the goal(s), the Bidder can provide documentation showing detailed, tangible, result oriented efforts that show the Bidder's attempts to fulfill the goal(s).

Per **§102-12 H. Good Faith Efforts**, should you be selected as the apparent low bidder or pre-designated firm, **all Good Faith Effort documentation will be evaluated prior to the actual award** of the contract to your firm.

THE GUIDANCE PROVIDED BELOW OUTLINES WHAT CONSTITUTES SUFFICIENT AND COMPREHENSIVE GOOD FAITH EFFORTS.

Additional guidance can be found in the ***DBE/MBE/WBE/SDVOB Contractors Solicitation and Good Faith Efforts Guide*** located at:
<https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/civil-rights>

Pre-Letting & Pre-Designation Good Faith Efforts

Once you have made the decision to entertain bidding on a project you should, at a minimum:

1. Analyze each item in the scope of work for a project and determine what items of work will provide subcontracting opportunities.
2. Search the appropriate registry for certified firms:
 - a. For DBE search UCP Directory <https://nysucp.newnycontracts.com>
 - b. For MBE and WBE search ESD Directory <https://ny.newnycontracts.com>
 - c. For SDVOB search: Office of General Services Directory <https://online.ogs.ny.gov/SDVOB/search>

Tailor the search to those firms with business descriptions or NAICS codes that are most appropriate for the work identified. NYSDOT has developed a Crosswalk chart that equates NYSDOT Work Codes/ Pay Items with NAICS/NIGP codes.

3. Notify those firms of your intent to bid via email and telephone, requesting written feedback on their interest in participation on your contract.
4. Ensure adequate time is given to the DBE/MBE/WBE/SDVOB firms to offer responses.

For more information regarding NAICS, go to the NAICS web site at: <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2012>

The Crosswalk chart is located at: <https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/civil-rights>.

Once a firm has been deemed low bidder or selected for pre-designation, commitments to DBE/MBE/WBE/SDVOB firms must be entered in the Department's civil rights reporting software program Equitable Business Opportunity (EBO). All DBE/MBE/WBE/SDVOB firms are required to acknowledge the Items and dollar commitments assigned to them in EBO.

Any shortfall in goal commitment requires supporting documentation to be provided to show all efforts taken. These Good Faith Efforts should include, **at a minimum**:

	Required Documentation of Good Faith Efforts
	Completed AAP-10 Solicitation log: This log should list only those firms that were directly solicited. Do not list mass emailing's performed. Outreach should be narrowly focused, targeted and result oriented. NOTE: For the AAP10 to be accepted it must be completed according to instructions provided.
	Detailed explanation identifying any circumstances unique to the contract that were deterrents to meeting the goal(s) (e.g., night work, small quantities over multiple locations, specialized work, PLA, etc.). The explanation should also include detailed rationale as to why a specific scope of work in the project is not considered to be a subcontract item, and therefore was not solicited for.
	Copies of ads placed for solicitation.
	Copies of <u>all</u> registry searches performed including those searches that resulted in no certified firms for a specific scope of work.
	Copies of emails and/or faxes that show "direct" scope of what you solicited the subcontractor/supplier, fabricator, etc. to do or provide and their responses.
	Evidence that off-site firms and services were entertained (e.g., material suppliers, trucking, fabricator, manufacturer, etc.).
	Copies of documentation showing negotiations took place between low bidder and prospective subcontractor or other firms (supplier, manufacturer, fabricator, etc.).
	Quotes from the selected firms and quotes received when a specific scope of work was given to a non-certified firm versus a certified firm (when certified firm's quote was deemed unreasonable or excessive).
	Detailed explanation for any scope of work deemed "self-performing" without intent to split the work (when there are DBE or MBE/WBE/SDVOB availability and goal has not been met)
	Supporting documentation of any and all additional efforts performed prior to letting or pre-designation date.

Examples of insufficient/unacceptable documentation includes:

- "In-house" generated lists that do not include DBE or MBE/WBE/SDVOB targeted firms.
- "In-house" generated lists that do not identify firms for specific work items or description being solicited.
- Copies of redundant emails to DBE/MBE/WBE/SDVOB firms containing identical language.
- Unsubstantiated response of non-interest from DBE or MBE/WBE/SDVOB firms.
- Numerous copies of the entire contract sent to each firm to attempt to provide quantity in lieu of quality.